

THOMPSON COBURN

Thompson Coburn LLP
Attorneys at Law

One Mercantile Center
St. Louis, Missouri 63101-1693
314-552-6000
FAX 314-552-7000

Facsimile

FOR IMMEDIATE DELIVERY

To: D. Michael Light

Firm Name: Solutia Inc.

Phone: 674-1617

Fax: 537669026139,6748957

From: Colleen Michuda

Date: Wednesday, December 15, 1999 11:49:34 AM

Message: Mike: I'm not sure if my last fax went through. Here is the Terminal
RR letter. Thanks. -- Colleen

*Ton mantr should
✓ w/ ~~Tom~~ Shawn Canavan
about need for access fast
- get tele. # from M. Light for Tom*

Total Number of Pages, including this page: 04

If you do not receive all of the pages, please call 314-552-6000 as soon as possible.

Thank you,

Fax Department - Operator: _____ Time of Transmittal: _____ A.M./P.M.

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December 10, 1999

Colleen E. Michuda
314-552-6563
FAX 314-552-7563
EMAIL cmichuda@
thompsoncoburn.com

Mr. Shawn T. Canavan
Railroad Realty Services, Inc.
700 North Second Street, 5th Floor
St. Louis, MO 63102

**Re: Access Agreement for stormwater and drainage improvements at intersection of
Terminal Railroad and Dead Creek**

Dear Shawn:

I am in receipt of your letter of December 9, 1999, transmitting Terminal Railroad's ("the Railroad") proposed "Right of Entry License Agreement" ("Agreement") between the Railroad and Solutia Inc. ("Solutia"). As you know, Solutia is requesting access to the Railroad's property at the intersection of Terminal Railroad and Dead Creek in St. Clair County, Illinois, in order to make certain stormwater and drainage improvements, including the removal and replacement of the existing culverts, at the intersection of the Railroad and Dead Creek. These stormwater and drainage improvements are required pursuant to a Unilateral Administrative Order ("UAO") issued to Solutia by the U.S. Environmental Protection Agency.

Due to the circumstances under which access is required, and given the nature of the work to be performed by Solutia, Solutia cannot agree to the Railroad's proposed Agreement. Although Solutia is willing to negotiate with the Railroad regarding the terms of the requested access, Solutia cannot agree to the following terms:

- 1) Solutia cannot agree to a license fee of \$3,000 (§2);
- 2) Solutia cannot agree to pay expenses incurred by the Railroad in supervising or inspecting the work (§7);
- 3) Solutia cannot agree to the extensive notice provisions outlined in Paragraph 8 of the Agreement, nor can Solutia agree to pay for flagmen or other protective or safety measures that are performed by the Railroad (§8);

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- 4) Because Solutia is performing this work in accordance with U.S. EPA's oversight, Solutia cannot agree to terms giving the Railroad the ability to approve or disapprove specifications or plans, or to supervise its work (§9(b), (d));
- 5) Solutia cannot agree to Paragraph 10 of the Agreement. This paragraph states that "Licensee's Work shall be performed so as not to obstruct or interfere with any underground or above ground water pipes, gas mains, sewers, fiber optic cables, wires, signal, communication lines, and other installations. . . ." The very nature of the work to be performed -- repair and replacement of the existing culverts -- necessitates an interference with underground pipes and sewers. Additionally, Solutia is not agreeable to giving the Railroad discretion to take action to eliminate what it considers an "interference," "obstruction," or "harmful or undesirable effect" (§10).
- 6) Solutia cannot agree to the broad "Indemnity" provision proposed in Paragraph 14. Solutia will only agree to an indemnity provision resembling the one proposed in Paragraph 5 of Solutia's original Access Agreement (attached).
- 7) Solutia cannot agree to Paragraph 15 governing insurance coverage. However, Solutia is agreeable to listing the Railroad as an additional insured on its contractor's Certificate of Insurance, and to providing the Railroad with a copy of such certificate.
- 8) Solutia cannot agree to Paragraph 16 of the Agreement, giving the Railroad "sole discretion" to terminate the License "for any reason whatsoever or no reason at all" (§16).
- 9) Solutia cannot agree to Paragraph 18 of the Agreement addressing "Disclosure of Materials." Solutia will only agree to release *final* versions of documents that discuss the Railroad's property, and Solutia cannot agree to the ten-day timeframe. Additionally, Solutia cannot agree to the confidentiality provisions contained in Paragraph 18. The nature of this work requires that Solutia coordinate with U.S. EPA and the State of Illinois in the performance of this work.
- 10) Solutia will not agree to pay the Railroad's attorney's fees if there is an action to enforce or interpret the Agreement (§19(c)).
- 11) Paragraph 19(j) must be amended to include U.S. EPA employees, contractors, agents, consultants, designees, representatives, and State of Illinois representatives ("Government Personnel").

The list above delineates the major provisions of the Railroad's proposed Agreement that are unacceptable to Solutia. I am again forwarding to you Solutia's original proposed Access Agreement for your consideration.

I will be contacting you in the next few days regarding amending your proposed Agreement. If we are unable to reach an agreement in the next few days, Solutia will turn this issue over to U.S. EPA.

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Thank you for your time and consideration to this matter.

Very truly yours,

Thompson Coburn LLP

By

Colleen E. Michuda

CEM/gao

Enclosure

cc: Joseph G. Nassif

Kevin Turner

D. Michael Light

Thomas Martin